

Michael D. O'Brien, OSB#951056  
Michael D. O'Brien & Associates, P.C.  
12909 SW 68<sup>th</sup> Parkway, Suite 160  
Portland, OR 97223  
(503) 786-3800

Attorney for International Collision Repair LLC, Debtor.

IN THE UNITED STATES BANKRUPTCY COURT  
DISTRICT OF OREGON

In re:	Case No. 20-33271-pcm11
International Collision Repair LLC, Debtor,	Case No. 20-32792-pcm11 <b>Jointly Administered Under</b> Case No. 20-32792-pcm11
John & Rebecca Southwick, Debtors.	<b>NOTICE AND MOTION TO SETTLE AND COMPROMISE</b>

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**NOTICE**

If you oppose the proposed course of action detailed below or sough in this motion, you must file a written objection with the bankruptcy court no later than twenty-one days after the date listed in the certificate of service below. If you do not file an objection, the court may grant the motion without further notice or hearing. Your objection must set forth specific grounds for objecting and your relation to the case. The objection must be received by the clerk of the court at US Bankruptcy Court, 1050 SW 6<sup>th</sup> Ave., #700, Portland, OR 97204 by the deadline specified above or it may not be considered. You must also serve the objection on counsel for ICR LLC at Michael D. O'Brien, 12909 SW 68<sup>th</sup> Parkway, Suite 160, Portland, OR 97204 within that same time. If the court sets a hearing, you will receive a separate notice listing the hearing date, time and other relevant information.

## **MOTION TO SETTLE AND COMPROMISE**

International Collision Repair, LLC (“ICR LLC”) intends to take the following action:

ICR LLC intends to sign a Stipulated Limited Judgment in the form attached as Exhibit 1 which resolves a dispute with Kapitus Inc. in the adversary proceeding pending under case no. 20-3117-pcm. As part of the settlement, Kapitus will agree to reduce its claim by approximately \$24,000 and to vote to accept a plan that contains specific treatment of Kapitus’ claim. In return, ICR LLC will release and hold harmless Kapitus from liabilities arising out of its pre-bankruptcy activity. The agreement is binding upon successors in interest of the parties including upon conversion or the appointment of a trustee.

ICR LLC believes the settlement is in the best interest of its Estate as it eliminates costly administrative expenses related to litigating the adversary proceeding. Furthermore, ICR LLC believes any recovery it may realize against Kapitus would be contested, costly, subject to defenses and would result in a net benefit to the Estate that is substantially less than the benefit obtained in the settlement. Finally, ICR LLC believes that this settlement allows for better treatment of secured creditors junior to Kapitus and thus is fair and equitable to all parties.

/s/ Michael D. O'Brien  
Michael D. O'Brien, OSB#951056  
Attorney for the Debtor(s)

I certify that on April 5, 2021, I served copies of the above notice on debtors, trustee, U.S. Trustee, and the following creditors entitled to notice:

**See Attached Creditor List Obtained this date from the US Bankruptcy Court**

/s/ Jackie Zielke  
Jackie Zielke, Paralegal to:  
Michael D. O'Brien, OSB#951056

Label Matrix for local noticing  
0979-3  
Case 20-33271-pcm11  
District of Oregon  
Portland  
Mon Apr 5 10:50:35 PDT 2021

24 Capital, LLC  
aka Funders App LLC  
c/o Mark Allayey, CEO  
31-10 37th Avenue, Suite 202  
Long Island City, NY 11101-2112

Bank Of America  
PO Box 15731  
Wilmington, DE 19886-5731

Blue Vine Capital, Inc  
c/o Eyal Lifshitz, CEO  
401 Warren Street, Suite 300  
Redwood City, CA 94063-1578

CHTD Company  
c/o Corporation Service Company  
801 Adlai Stevenson Drive  
Springfield, IL 62703-4261

(p)CITY OF PORTLAND  
OFFICE OF CITY ATTORNEY  
RM 430  
1221 SW 4TH AVE  
PORTLAND OR 97204-1991

Complete Business Solutions Group, Inc  
20 N. 3rd Street  
Philadelphia, PA 19106-2118

David Hammerquist Law  
401 W. Front St. #302  
Boise, ID 83702-5122

(p)EVEREST BUSINESS FUNDING LLC  
8200 NW 52ND TERR  
SECOND FLOOR  
DORAL FL 33166-7852

FFE Services LLC  
244 Madison Avenue, Suite 379  
New York, NY 10016-2817

International Collision Repair, LLC  
9817 E. Burnside Street  
Portland, OR 97216-2329

Axalta Coating Systems, LLC  
c/o Corporation Service Company, RA  
1127 Broadway Street, NE, Suite 310  
Salem, OR 97301-1139

(p)BANK OF AMERICA  
PO BOX 982238  
EL PASO TX 79998-2238

Bluevine Capital Inc.  
c/o Valerie Bantner Peo, Esq.  
Buchalter PC  
55 2nd St., 17th Fl.  
San Francisco, CA 94105-3493

CT Corporation System  
Attn: SPRS  
330 N. Brand Blvd., Suite 700  
Glendale, CA 91203-2336

Complete Business Solutions Group  
c/o Lisa McElhone CEO  
205 Arch St. 2nd Floor  
Philadelphia, PA 19106-1904

Corporation Service Company  
Bankruptcy Notices  
801 Adlai Stevenson Drive  
Springfield, IL 62703-4261

Department of Consumer & Business Svcs  
350 Winter Street NE #400  
PO Box 14610  
Salem, OR 97309-0445

EBF Partners, LLC  
dba Everest Business Funding  
8200 NW 52nd Terrace, Suite 200  
Doral, FL 33166-7852

First Corporate Solutions  
914 S Street  
Sacramento, CA 95811-7025

1050 SW 6th Ave. #700  
Portland, OR 97204-1160

Baltz Burnside Holdings, LLC  
641 S. Stonehenge Terrace  
West Linn, OR 97068-2540

Big Wave Finance  
548 Market St. #35697  
San Francisco, CA 94104-5401

CHTD Company  
PO Box 2576  
Springfield, IL 62708-2576

(p)JPMORGAN CHASE BANK N A  
BANKRUPTCY MAIL INTAKE TEAM  
700 KANSAS LANE FLOOR 01  
MONROE LA 71203-4774

Complete Business Solutions Group  
dba Par Funding  
2000 PGA Blvd, Suite 4440  
Palm Beach Gardens, FL 33408-2738

Corporation Service Company  
PO Box 2576  
Springfield, IL 62708-2576

EBF Partners, LLC  
c/o NRAI Services, Inc. -RA  
1200 South Pine Island Road  
Fort Lauderdale, FL 33324-4413

EBF Partners, LLC d/b/a Everest Business Fun  
8200 N.W. 52nd Terrace, Suite 200  
Doral, FL 33166-7852

First Corporate Solutions  
c/o SPRS - RA  
914 S. Street  
Sacramento, CA 95811-7025

Foundation Group LLC  
c/o Thomas Friedrich, Asst. Genl Counsel  
11501 Sunset Hills Rd. Suite 100  
Reston, VA 20190-6700

Foundation Group LLC  
c/o Sam Graziano, CEO  
11501 Sunset Hills Road, Suite 100  
Reston, VA 20190-6700

Funding Metrics, LLC  
Attn: Paulette Yiambilis, Genl. Counsel  
3320 Tillman Drive, Suite 200  
Bensalem, PA 19020

(p) FUNDING METRICS LLC  
ATTN PAULETTE YIAMBILIS ESQ  
FUNDING METRICS LLC  
3220 TILLMAN DRIVE SUITE 200  
BENSALEM PA 19020-2028

Internal Revenue Service  
Bankruptcy Notices  
PO Box 7346  
Philadelphia, PA 19101-7346

Invision Funding, LLC  
2500 Wilson Boulevard, Suite 350  
Arlington, VA 22201-3873

John & Rebecca Southwick  
2418 Donegal Court  
West Linn, OR 97068-3907

John Southwick  
2418 Donegal Court  
West Linn, OR 97068-3907

Kabbage  
c/o Kathryn Petralia, President  
925B Peachtree St. NE  
Atlanta, GA 30309-3918

Kapitus Servicing, Inc.  
c/o Benjamin Johnston, COO  
120 West 45th Street, 4th Floor  
New York, NY 10036-4041

Kapitus, LLC  
aka Invision Funding LLC -RA- Blue Wave  
6802 Paragon Place, Suite 410  
Richmond, VA 23230-1655

Lien Solutions  
PO Box 29071  
Glendale, CA 91209-9071

LoanBuilder  
c/o Swift Financial, LLC  
3505 Silverside Rd.  
Wilmington, DE 19810-4905

Multnomah County Attorney  
Suite 500  
501 SE Hawthorne Blvd  
Portland, OR 97214-3501

Oregon Department Of Revenue  
Bankruptcy Notice Dept.  
955 Center Street, NE  
Salem, OR 97301-2555

Oregon Employment Department  
Room 107  
875 Union Street, NE  
Salem, OR 97311-0800

Saturn Funding, LLC  
c/o National Registered Agents, Inc.  
1209 Orange St.  
Wilmington, DE 19801-1120

Saturn Funding, LLC  
c/o Weinstein & Weinstein, LLP  
Attn: Israel Weinstein  
68-15 Main Street, 2nd Floor  
Flushing, NY 11367-1310

Securities & Exchange Commission  
Attn: Bankruptcy Counsel  
444 South Flower Street, Suite 900  
Los Angeles, CA 90071-2934

Small Business Administration  
Bankruptcy Notices  
801 Tom Martin Drive, Suite 120  
Birmingham, AL 35211-6424

Strategic Funding Source, Inc.  
c/o Andrew Reiser, CEO  
1501 Broadway, Suite 1515  
New York, NY 10036-5505

Swift Financial, LLC  
as Servicing agent for Webbank  
3505 Silverside Road, Suite 200  
Wilmington, DE 19810-4905

US Attorney -Oregon  
Attn: Billy J. Williams, US Attorney  
1000 SW 3rd Ave., #600  
Portland, OR 97204-2936

US Attorney General  
Attn: William Barr  
950 Pennsylvania Avenue, NW  
Washington, DC 20530-0001

US Trustee, Portland  
620 SW Main St #213  
Portland, OR 97205-3026

Universal Underwriters Insurance Co  
PO Box 68549  
Schaumburg, IL 60168-0549

WebBank  
c/o Kelly Barnett, President  
215 S State Street, Suite 1000  
Salt Lake City, UT 84111-2336

Webbank  
Bankruptcy Notices  
6440 S. Wasatch Blvd., Suite 300  
Salt Lake City, UT 84121-3518

Wesco Group Incorporated  
805 SW Broadway Suite 1900  
Portland, OR 97205-3359

Wesco Group LLC  
c/o CT Corp Systems RA  
780 Commercial St SE, #100  
Salem, OR 97301-3465

Amy E Mitchell

POB 2289

Lake Oswego, OR 97035-0074

MICHAEL D O'BRIEN

Michael D. O'Brien & Associates, P.

12909 SW 68th Parkway, Suite 160

Portland, OR 97223-8399

The preferred mailing address (p) above has been substituted for the following entity/entities as so specified by said entity/entities in a Notice of Address filed pursuant to 11 U.S.C. 342(f) and Fed.R.Bank.P. 2002 (g)(4).

Bank Of America

POB 982235

El Paso, TX 79998

Chase

PO Box 182051

Columbus, OH 43218

City Of Portland

Office Of City Attorney

1221 SW Fourth Avenue, Room 430

Portland, OR 97204

EBF Partners, LLC

dba Everest Business Funding

5 West 37th Street, Suite 1100

New York, NY 10018

Funding Metrics, LLC

c/o Jim Carnes, CEO

3220 Tillman Drive, Suite 200

Bensalem, PA 19020

The following recipients may be/have been bypassed for notice due to an undeliverable (u) or duplicate (d) address.

(d) Wesco Group LLC  
c/o CT Corp Systems RA  
780 Commercial St SE, #100  
Salem, OR 97301-3465

	End of Label Matrix
Mailable recipients	61
Bypassed recipients	1
Total	62

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF OREGON

In re:

John Southwick &  
Rebecca Southwick,

Debtors,

International Collision Repair, LLC

Debtor.

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International Collision Repair LLC,

Plaintiff,

v.

**Fundation Group, LLC**, a Delaware  
Limited Liability Company, **BlueVine**  
**Capital Inc.**, a Delaware Corporation,  
**Kapitus LLC**, a Virginia Limited Liability  
Company, **Webbank**, a Utah Corporation,  
**Saturn Funding LLC**, a New York  
Limited Liability Company, **EBF Partners**,  
**LLC**, a Delaware Limited Liability

**Case No: 20-32792-pcm11 LEAD CASE**  
Case No: 20-33271-pcm11

**Jointly Administered Under:**  
Case No: 20-32792-pcm11

Adv. Proc. No. 20-03117-pcm11

STIPULATED LIMITED JUDGMENT  
AS TO KAPITUS LLC

Company, **24 Capital LLC**, a New York Limited Liability Company, **Funding Metrics, LLC**, a Delaware Limited Liability Company, **Complete Business Solutions Group Inc.**, a Delaware Corporation,

Defendants.

Based on the Stipulation of the parties as evidenced by the signature of counsel below, it is hereby ORDERED and JUDGMENT shall enter as follows:

1. Kapitus Servicing Inc. as agent for Kapitus, LLC (“Kapitus”) by and through its counsel stipulates to the terms contained herein, which bind Kapitus’ successors and/or assigns.
2. The value of all assets owned by International Collision Repair LLC as of August 2, 2020 was \$254,851.79.
3. Kapitus and International Collision Repair LLC entered into an agreement regarding a financing involving the purchase of future receivables on or about August 15, 2019.
4. As part of the August 15, 2019 agreement, Kapitus was granted a security interest in substantially all the assets owned by International Collision Repair LLC.
5. Kapitus filed a UCC-1 financing statement with the Oregon Secretary of State Corporation Division on August 19, 2019 that was recorded as document number 92015800.
6. The debt owed to Kapitus LLC by International Collision Repair LLC at the time of the Petition Date was \$115,897.36, which accrues interest and fees pursuant to the August 15, 2019 agreement.
7. The Debtor agrees to propose a Plan which will provide that the debt owed to Kapitus LLC by International Collision Repair LLC will be paid at a reduced principal balance of \$91,912.00, which accrues simple interest at the annual rate of 6%

commencing with the Effective Date of the Plan (as that term is defined in such proposed Plan.)

8. The Debtor agrees to propose a Plan which will provide that commencing with the Effective Date of the Plan (as that term is defined in such proposed Plan,) the debt owed to Kapitus by International Collision Repair LLC shall be paid in 119 equal monthly installments of \$1,020.41 followed by a 120<sup>th</sup> payment of \$1,020.63.
9. Kapitus agrees to Vote to Accept a Plan proposed by the Debtor that contains the terms disclosed at Paragraph 7 and 8 above, with the reservation that it may seek to include additional attorneys' fees and costs should it become involved in contested proceedings after the entry of this stipulated judgment and may require other terms not in conflict with the debt, interest or payment amount identified above.
10. Debtor further agrees to release and hold harmless Kapitus, its affiliates, parents, agents, officers, directors, managers, members, representatives, successors and assigns on the Effective Date of the Plan from all liabilities arising out of or related to the August 15, 2019 agreement in consideration of Kapitus reducing the principal balance of the debt as outlined herein. For the avoidance of doubt, this release covers all avoidance actions under the Bankruptcy Code and shall be binding on any successor to the Debtor, including upon conversion or the appointment of a trustee.
11. No costs and/or fees are awarded to either party in this adversary proceeding, other than any which are included in the reduced principal balance indicated in paragraph 7.

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This Order Complies with the Requirements of LBR 9021-1.

It is So Stipulated:

/s/      PROPOSED  
Michael D. O'Brien, OSB#951056  
Attorney for International Collision Repair LLC

It is So Stipulated:

/s/      PROPOSED  
Daniel J. Bugbee  
Attorney for Kapitus LLC

CC: Debtors, Defendant, ECF parties